

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,)	
establishing the method and avoided cost calculation)	
for THUMB ELECTRIC COOPERATIVE)	Case No. U-18097
to fully comply with the Public Utilities Regulatory)	
Policy Act of 1978, 16 USC 2601 <i>et seq.</i>)	
_____)	

At the November 22, 2016 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Sally A. Talberg, Chairman
Hon. Norman J. Saari, Commissioner
Hon. Rachael A. Eubanks, Commissioner

ORDER APPROVING STIPULATION TO DISMISS

On June 17, 2016, in accordance with an order issued on May 3, 2016, Thumb Electric Cooperative (Thumb) filed an application in this case. On August 1, 2016, the Board of Directors of Thumb adopted a resolution to become member-regulated in accordance with 2008 PA 167, MCL 460.31 *et seq.*, the Electric Cooperative Member-Regulation Act. Thumb notified the Commission of this decision on August 26, 2016. "Member-regulation" means that the Board of Directors of Thumb is charged with establishing, maintaining, and applying all rates, charges, accounting standards, billing practices, and terms and conditions of service. MCL 460.32(f). Assuming that all of the statutory prerequisites are met, member-regulation commences 90 days after the notification to the Commission. MCL 460.34(f).

On October 31, 2016, the Commission Staff (Staff) and Thumb submitted a joint report to the Commission in Case No. U-18167, wherein the parties recommended the Commission find that Thumb had met all of the prerequisites for exercising member-regulation. Accordingly, after November 26, 2016, the Commission will no longer have jurisdiction of this case concerning avoided cost calculation under the Public Utilities Regulatory Policy Act (PURPA). Therefore, on November 3, 2016, Thumb and the other parties to this proceeding submitted a stipulation, attached as Exhibit A, to dismiss the case for lack of subject matter jurisdiction.

The Commission finds that, as of November 26, 2016, the Commission retains no jurisdiction over proceedings determining or reviewing Thumb's rates, charges, accounting standards, billing practices, and terms and conditions of service, including PURPA avoided cost. The stipulation is therefore approved and the case is dismissed.

THEREFORE, IT IS ORDERED that the stipulation, attached as Exhibit A, is approved and the case is dismissed.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so by the filing of a claim of appeal in the Michigan Court of Appeals within 30 days of the issuance of this order, under MCL 462.26. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel. Electronic notifications should be sent to the Executive Secretary at mpscedockets@michigan.gov and to the Michigan Department of the Attorney General - Public Service Division at pungp1@michigan.gov. In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General - Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

Sally A. Talberg, Chairman

Norman J. Saari, Commissioner

Rachael A. Eubanks, Commissioner

By its action of November 22, 2016.

Kavita Kale, Executive Secretary

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 to fully comply with the Public Utilities Regulatory) **Case No. U-18097**
 Policy Act of 1978, 16 USC 2601 *et seq.*)

**STIPULATION TO DISMISS PROCEEDINGS
FOR LACK OF SUBJECT MATTER JURISDICTION**

By the signatures of their respective counsel, and pursuant to Section 7 of the Electric Cooperative Member-Regulation Act, PA 167 of 2008, (the “Act”), MCL 460.37, and Rule 431 of the Michigan Administrative Hearing System’s Rules of Practice and Procedure before the Commission, R 792.10431, Thumb Electric Cooperative (“Thumb”), Environmental Law & Policy Center, Ecology Center, Solar Energy Industries Association, Vote Solar, and the Michigan Public Service Commission Staff (“Staff”) (collectively, “the parties”) respectfully submit this Stipulation to dismiss the above-captioned case. In support of the Stipulation, the parties state as follows:

1. The Act allows cooperative electric utilities to become “member-regulated” by following certain procedures, including holding a properly convened and open board meeting to vote on member-regulation, securing a 2/3 affirmative roll-call vote of directors, providing the meeting minutes to all cooperative members within 60 days of the vote, and notifying the Michigan Public Service Commission (the “Commission”) of the decision within 10 days of the vote. MCL 460.34.

2. Upon becoming member-regulated, a cooperative's board of directors has jurisdiction over "establishing, maintaining, and applying all rates charges, accounting standards, billing practices, and terms and conditions of service." MCL 460.32(f).

3. Assuming compliance with the requirements of MCL 460.34, a cooperative becomes member-regulated 90 days after notifying the Commission of its vote. MCL 460.34(f).

4. On August 16, 2016, Thumb's board of directors adopted a resolution to become member-regulated under the Act. Thumb notified the Commission of this decision on August 26, 2016.

5. On June 17, 2016, Thumb filed its Application in this proceeding.

6. As of November 26, 2016, Thumb will no longer be rate-regulated by the Commission.

7. This proceeding, which addresses the avoided cost rates, relates to Thumb's rates, charges, accounting standards, and billing practices, and, therefore, the Commission no longer has jurisdiction over this proceeding.

8. The Commission has previously issued Orders dismissing proceedings where a cooperative has become member-regulated. See, e.g., December 20, 2012 Order in Case No. U-16747 (Ontonagon County Rural Electrification Association) and October 11, 2012 Order in Case No. U-16748 (Presque Isle Electric & Gas Co-Op). Those dismissal Orders did not relieve the member-regulated cooperatives of any other obligations set forth under applicable state or federal law.

9. The Act and the Commission's prior Orders in Case No. U-16747 and Case No. U-16748 support the propriety of dismissal where the Commission no longer has any authority to exercise its former ratemaking jurisdiction.

10. The parties agree to waive Section 81 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.281, as it applies to this portion of this proceeding, if the Commission approves this Stipulation and dismisses this case.

11. The Staff certifies that this Stipulation is reasonable, will promote the public interest, will aid the expeditious conclusion of this case, and will minimize the time and expense that the Commission and the parties would otherwise be required to devote to these cases.

12. For the above-stated reasons, the parties stipulate to dismissal of this case.

Wherefore, Thumb and Staff jointly request that the Commission enter an order approving this stipulation and dismissing the present docket in its entirety.



Dated: November 3, 2016

MICHIGAN PUBLIC SERVICE COMMISSION
STAFF

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Dated: November 3, 2016

Richard J.
Aaron

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THUMB ENERGY COOPERATIVE

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Dated: November 3, 2016



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